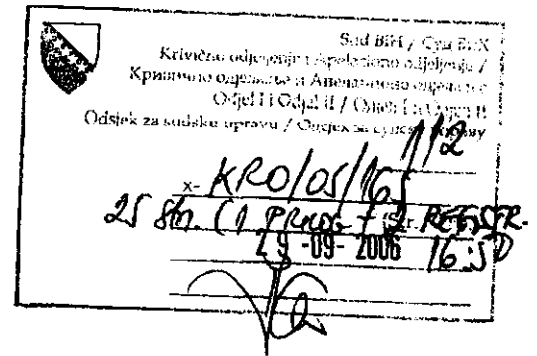


**BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BiH
SARAJEVO
No: KT-RZ-146/05
Sarajevo, 29 September 2006**



**COURT OF BOSNIA AND HERZEGOVINA
- Preliminary Hearing Judge -**

Pursuant to Articles 35(2)(h), 226(1) and 227 of the Criminal Procedure Code of Bosnia and Herzegovina ('BiH CPC'), I hereby file this

INDICTMENT

Against:

Tanasković Nenad a.k.a. "Nešo", son of Momir and mother Stanojka, born on 20th November 1961 in the village of Donja Lijeska, Višegrad municipality, citizen's identification no. 2011961133652, Serb, citizen of BiH, residing in Donja Lijeska no. 16, Višegrad Municipality, unmarried, literate, completed secondary school, qualified driver, employed, no prior convictions, military service completed in 1981 in Slavenska Požega, arrested by SIPA on 11 July 2006 at 15:05, transferred to the Court of BiH Detention Unit on the same day at 18:35, originally detained pursuant to the decision of the Court of BiH made on 12 July 2006 ordering detention until 11 August 2006 at 15:05, and currently detained pursuant to the decision of the Court of BiH made on 9 August 2006 ordering detention until 9 October 2006.

Because :

In the period from April through June of 1992, during an armed conflict in Bosnia and Herzegovina, as a reserve policeman of the Višegrad Public Security Station, of the Trebinje Security Services Center, he participated in a widespread or systematic attack of the Army of the Serb Republic of Bosnia and Herzegovina ("the Army"), police and paramilitary formations on Bosnian Muslim civilian population on the territory of the Višegrad municipality, carried out pursuant to policies of the Army, the police, paramilitary formations, the Serb Democratic Party ("SDS"), and other organizations, and with the purpose of removing Bosnian Muslim

inhabitants from the territory of the Municipality of Višegrad, during which attack hundreds of civilians were killed, tortured, beaten, illegally deprived of liberty, detained in inhumane conditions, and forcibly transferred out of the territory of Višegrad Municipality, and women were raped, whereas their property was illegally confiscated, destroyed or burnt down, all on religious, national or political grounds, for which attacks the Accused had knowledge of and participated in them, in as much as:

1. In mid-May 1992, together with Nenad Marković and an unknown soldier of the Užice Corps, he arrived in a red "Zastava 750" -"Fićo" automobile in a village on the territory of Višegrad municipality and in front of the house of Witness A, a civilian; having fired three bursts of automatic rifle fire above her head, he told her that she was the one he was looking for and then he forced her to get into the car, where he threatened her that she would be raped; he also told her that she would be baptized, that she would pray in a church, that she would kiss the cross and that her family would not see her for the rest of her life, cursing her; then, coming to a nearby village and the house of [REDACTED] he and Witness A came out of the car and got into a "Lada" vehicle owned by [REDACTED] another civilian, whom he forced to drive them to the Cultural Center in Višegrad, where he forced the two of them out of the car and took them at gunpoint to the Police Station, after which [REDACTED] was imprisoned in the attic of the Police Station with other detainees, where Witness A was interrogated by Drago Samardžić and was then placed in a room in the Police Station where she was later raped by two unknown soldiers.

2. On 23 May 1992, he and Novo Rajak, Miloš Pantelić, and Slavko Trifković deprived civilians [REDACTED] and his brother [REDACTED] of their liberty in the Osojnica neighborhood of Višegrad and took them to the local community office in the village of Donja Lijeska for interrogation; during the interrogation, the Accused Tanasković repeatedly hit [REDACTED] with his hands on [REDACTED] head and back and then gave him a severe blow in the back with a rifle butt; several times he also hit [REDACTED] who was repeatedly hit by Novo Rajak; afterwards, the Accused and Novo Rajak took [REDACTED] to the Police Station in Višegrad, where they were detained for four days before they were transferred to the Uzamnica barracks in Višegrad; in the barracks, the detainees were kept without adequate food, space, or hygienic conditions and were forced to relieve themselves into a bucket; one day, Novo Rajak and Nenad Tanasković threw a severely beaten prisoner, the brother-in-law of [REDACTED] from Holijaci, into the room in which [REDACTED]

and his brother were detained; he said that Novo Rajak and Nenad Tanasković had beaten him the most; after approximately six days of detention in the Uzamnica barracks, [REDACTED] was released, whereas his brother [REDACTED] remained in the barracks, and was later killed.

3. On 25 May 1992, in the village of Kabernik in Višegrad Municipality, together with two unidentified soldiers, the Accused grabbed [REDACTED] as he was coming out of hiding in the woods, he tied his hands, threw him in a small truck, and drove off towards Donja Lijeska, after which the Accused and Novo Rajak brought the heavily beaten prisoners [REDACTED] and his father [REDACTED] into the Uzamnica barracks, where the two prisoners told the other prisoners in Uzamnica that the Accused and Novo Rajak had beaten them up; the prisoners in the Uzamnica barracks were kept without adequate food, space, or hygienic facilities and were forced to relieve themselves in a bucket, and [REDACTED] were later killed.

4. On 31 May 1992, the Accused and a group of paramilitary soldiers attacked undefended villages populated by Muslims, that is, villages of Osojnica, Kabernik, Holijaci and Orahovci, and formed a human shield using the captured civilian male residents, telling them that they were doing it to protect the soldiers from mines and from attacks by Muslim forces and threatening to kill anyone who attempted to run away; then, they looted their houses and shops and set them on fire; the Accused personally set some of the houses on fire; during the night, on the premises of the Primary School in Orahovci, where they all were staying for the night, [REDACTED] and another man were repeatedly called out of the room where the men were detained and taken to another room in the school and severely beaten by Nenad Tanasković, Miloš Pantelić, and five or six other soldiers; the next day, the prisoners were marched in the direction of a bridge and they were threatened that they would all be executed; then they were taken to the Uzamnica barracks in Višegrad, from where they were released in a few hours.

5. On 14 June 1992, the Accused was driving one of the buses with Muslim civilians from Višegrad who were being taken to the territory controlled by the Army of BiH and who were forced to leave their places of residence due to unbearable living conditions and threats of death if they did not leave Višegrad; when they arrived to a place called Išević Brdo near the border between Sokolac and Olovo municipalities, men under the age of 65 were ordered to stay in the vehicles, whereas the women, children, and men

over the age of 65 were ordered to get off of the vehicles, which they did, and the Accused yelled to the group of children, women and elderly people leaving the vehicles that they should go to „Alija's State" and that their men would be released when the Army of RBiH released some captured Serb soldiers; afterwards, the convoy carrying 50 Muslim civilian men reached Sokolac and then Rogatica, where the male prisoners were beaten and their hands were tied with wire; then they were transferred to another bus which drove them in the direction of Sokolac, this time without the Accused; the bus stopped in the vicinity of the village of Kalimići, where the male prisoners were told to get off the bus and then they were taken up a hill and, two by two, to the edge of a pit, where they were shot from firearms and killed; one of the prisoners escaped from the line and survived.

6. On 16 June 1992, while soldiers were taking prisoners out of the truck and on the Old Bridge in Višegrad, killing them, and throwing them to the Drina river, the Accused forced Witness C and another elderly Muslim man (both civilians) to clean blood, bodies, and body parts off of a bridge in Višegrad and then the Accused took Witness C to the garden of the Hotel "Višegrad" where he beat him and forced him to lick blood off the ground; then he took him to the Višegrad High School Center, which was used as a detention center and, together with an unidentified soldier, he beat Witness C again, hitting him with a wooden baton which broke, and then kicking him; the other soldier was hitting him with a rifle butt and his blows were much weaker; the Accused then hit the wife of Witness C, who was begging him to stop beating him; he broke two of her teeth.

7. On 16 June 1992, as [REDACTED] her son [REDACTED] and a group of other Bosniaks were returning home because of an unsuccessful attempt of leaving Višegrad, on their way from the Old Bridge on the Drina to the apartment where [REDACTED] lived, the Accused and an unidentified soldier ordered [REDACTED] to get into a truck or Golf automobile, which they did; the two were then driven away by Tanasković; other people later told [REDACTED] that they had seen her son in prison; at some point, [REDACTED] were killed and their bodies were later exhumed at Slap near Žepa.

Thus, as described above, as part of a widespread or systematic attack against the Muslim civilian population from the territory of Višegrad municipality, with knowledge of such attack and participating in it, and knowing by his acts and omissions that he was participating in it by ordering, perpetrating, aiding or abetting with discriminatory intent based on

political, racial, national, ethnic, cultural, or religious grounds; he is responsible for the imprisonment of [REDACTED] and Witness A; her rape; the torture and imprisonment of [REDACTED] and the son-in-law of [REDACTED] and the killing of [REDACTED] the torture, imprisonment and killing of [REDACTED] the beating, imprisonment and severe deprivation of liberty and other inhumane acts against the men from the villages of Osojnica, Kabernik, Holijaci, and Orahovci and the beating of [REDACTED] the persecution and forcible transfer of hundreds of Muslims from Višegrad; the torture and imprisonment of Witness C and his wife; the imprisonment and killing of [REDACTED]

Whereby he committed the criminal offence of

Crimes against Humanity under Article 172(1) of the Criminal Code of Bosnia and Herzegovina, namely,

- 1. per sub-clauses e) (deprivation of liberty of Witness A and [REDACTED]), f) (rape of Witness A), g) (rape of Witness A), and h) (persecution) in respect of Count 1 of the Indictment;**
- 2. per sub-clauses a) (killing of [REDACTED]), e) (deprivation of liberty of [REDACTED]), f) (beating of [REDACTED]), h) (persecution), and k) (beating of [REDACTED] and imprisonment of [REDACTED] in inhumane conditions) in respect of Count 2 of the Indictment;**
- 3. per sub-clauses a) (killing of [REDACTED]), e) (deprivation of liberty of [REDACTED]), f) (beating of [REDACTED]), h) (persecution), and k) (beating of [REDACTED] and imprisonment of [REDACTED] in inhumane conditions) in respect of Count 3 of the Indictment;**
- 4. per sub-clauses d) (forced marching of civilian prisoners), e) (taking of civilian prisoners), f) (beating of [REDACTED]), h) (persecution), and k) (human shield) in respect of Count 4 of the Indictment;**

5. per sub-clauses d) (forcible transfer), e) (imprisonment of men under the age of 65), and h) (persecution) in respect of Count 5 of the Indictment;
6. per sub-clauses f) (beating and forced cleaning of blood, bodies, and body parts), h) (persecution), and k) (beating and forced cleaning of blood, bodies, and body parts) in respect of Count 6 of the Indictment;
7. per sub-clauses a) (killing of [REDACTED]), e) (deprivation of liberty of [REDACTED]), and h) (persecution) in respect of Count 7 of the Indictment;

all in connection with Article 29, Article 35, and Article and 180(1) of the Criminal Code of Bosnia and Herzegovina.

Therefore,

I hereby move the Court to

I. Schedule and conduct the main trial and to summon the attendance of the following persons:

The Prosecutor of the Prosecutor's Office of BiH;

The Accused Nenad Tanasković, currently detained in the Penal and Correctional Institution ("KPZ") Kula in Istočno Sarajevo;

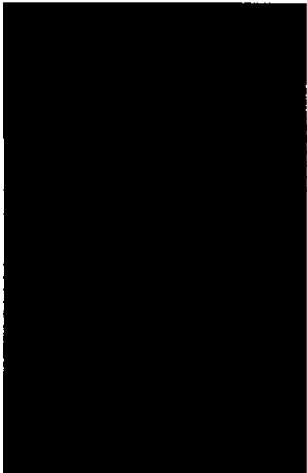
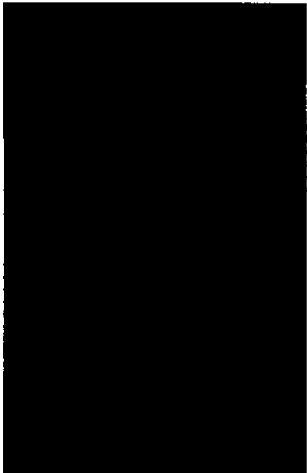
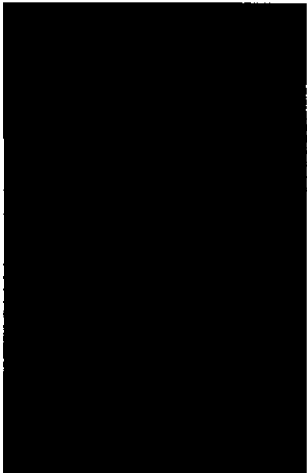
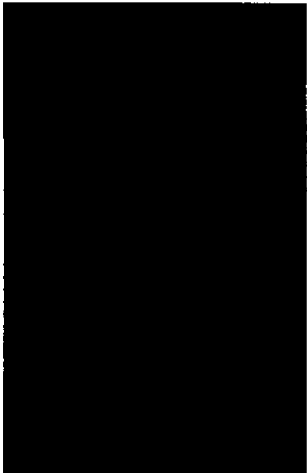
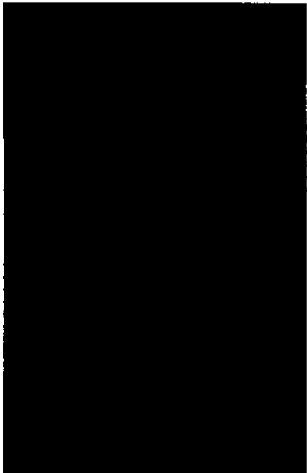
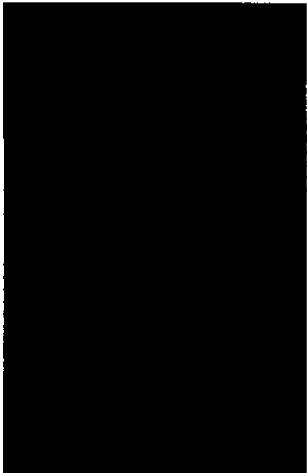
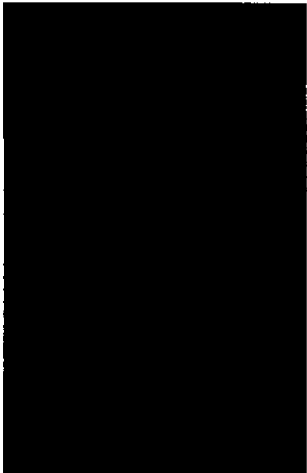
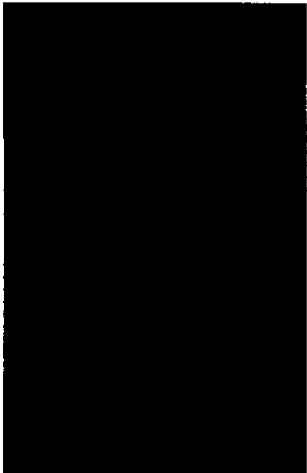
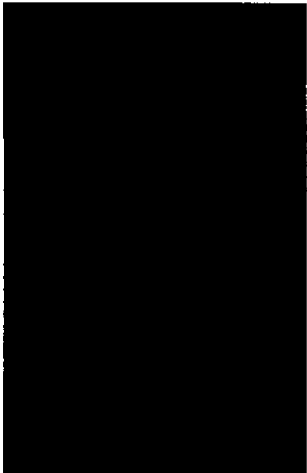
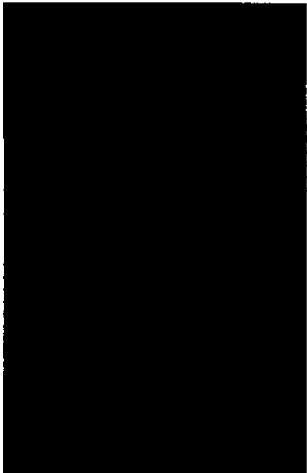
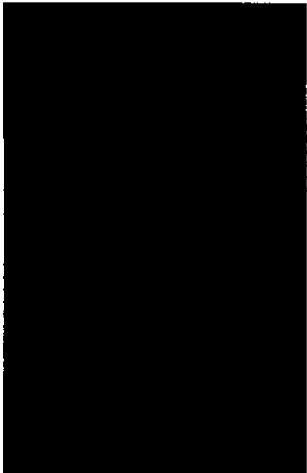
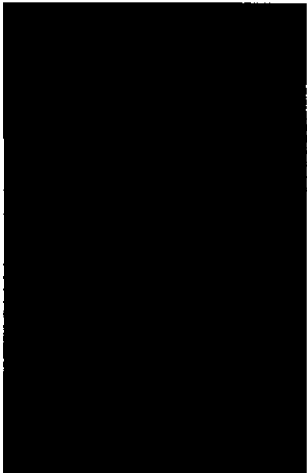
The defense counsel for the Accused, Dragan Borovčanin, attorney-at-law from Sokolac.

II. Receive evidence as follows

a) To hear the following persons as witnesses:

1. Protected Witness A¹

¹ See Order for Protective Measures, No. X-KRN-05/165, 22.09.2006.

2. Protected Witness B²
3. Protected Witness C³
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b) To inspect the following evidence

1. Record on questioning of the suspect Tanasković Nenad, Prosecutor's Office of BiH, number KT-RZ-146/06 dated 11 July 2006,
2. Request to issue a warrant for search of premises and seizure of evidence, Prosecutor's Office of BiH, KT-RZ-146/05 dated 26 June 2006,
3. Request to modify the warrant for search of premises and seizure of evidence, Prosecutor's Office of BiH, KT-RZ-146/05 dated 27 June 2006,
4. Order to the State Investigation and Protection Agency of BiH for search of premises and seizure of evidence, Court of BiH, number X-KRN-05/165 dated 27 June 2006,
5. Order to the State Investigation and Protection Agency of BiH for search of premises and seizure of evidence, Court of BiH, number X-KRN-05/165 dated 12 July 2006,
6. Certified copy of the document addressed by the Court of BiH to the Prosecutor's Office of BiH to submit the official report and temporarily seized items, the Court of BiH, number X-KRN-05/165 dated 14 July 2006,

² See Order for Protective Measures, No. X-KRN-05/165, 22.09.2006.

³ See Order for Protective Measures, No. X-KRN-05/165, 22.09.2006.

7. Certified copy of the letter sent by the State Investigation and Protection Agency to the Court of BiH, number 17-04/2-04-2/632-6/06 dated 12 July 2006,
8. Certified copy of the Official Report on carrying out the Order on search of the flat, other premises and movables, State Investigation and Protection Agency of BiH, number 17-04/2-619-5/06 dated 12 July 2006,
9. Certified copy of the Order on search of the flat, other premises and movables, State Investigation and Protection Agency of BiH, number 17-04/2-04-2-1/06 dated 11 July 2006,
10. Record on search of the flat, other premises and movables, State Investigation and Protection Agency of BiH, number 17-04/2-04-2-11/06 dated 11 July 2006,
11. Certificate on temporary seizure of items, State Investigation and Protection Agency of BiH, number 17-04/2-04-2-31/06 dated 11 July 2006,
12. Record on exhumation, the Cantonal Court in Sarajevo, number Kri-421/00 dated 09 October 2000 with report on criminal and technical search of the site, photo documentation, sketch of the site and autopsy report (regarding [REDACTED]);
13. Record on exhumation, the Cantonal Court in Sarajevo, number Kri-414/00 dated 09 October 2000 with report on criminal and technical search of the site, photo documentation, sketch of the site and autopsy report (regarding [REDACTED]);
14. Letter from the Federal Commission on Missing Persons related to delivery of findings of the DNA analysis, Federal Commission on Missing Persons, number 01-41-3528/2003 dated 12 December 2003,
15. Letter from the Cantonal Court in Sarajevo related to delivery of records of exhumations, No. 009-0-SU-06-000995, dated 5 September 2006,
16. Copy of the DNA report for [REDACTED] number 2293/03 dated 08 November 2003 and Record on exhumation, the Cantonal Court in Sarajevo, number Kri-414/00 dated 09 October 2000 with report on criminal and technical search of the site, and autopsy report (regarding [REDACTED]),
17. Death Certificate of [REDACTED] No. 202-866/01, dated 19 February 2001,
18. Death Certificate of [REDACTED] No. 202-873/01, dated 19 February 2001,
19. Official Letter from Ministry of the Interior of the Republika Srpska to Prosecutor's Office of BiH regarding delivery of lists of reserve

- police officers from Višegrad Municipality, No. 02-7652/06, dated 11 September 2006;
20. Copy of List of Members of Reserve Police from Public Security Station Višegrad, dated 10 June 1992, including the name of Nenad Tanasković;
 21. Copy of the Payroll for permanently employed and reserve staff of the Police for the month of June 1992, Ministry of Interior, Public Security Station Višegrad, dated 01 August 1992, including the name of Nenad Tanasković,
 22. Copy of the personal ID card and driving license of Tanasković Nenad,
 23. Letter addressed to the Prosecutor's Office of BiH on delivery of criminal record and Certificate of Citizenship, Ministry of Interior, Public Security Station Višegrad, 13-1-11/02-235-152/06 dated 07 August 2006,
 24. Criminal record, number 13-1-11/02-235-152/06 of 07 August 2006,
 25. Certificate of Citizenship, the Municipality of Višegrad, number 03-204-1609/06 dated 07 August 2006,
 26. Prosecutor v. Mitar Vasiljević, ICTY Trial Chamber Judgment, No. IT-98-32, 29 November 2002,
 27. Prosecutor v. Mitar Vasiljević, ICTY Appeals Chamber Judgment, No. IT-98-32-A, 25 February 2004,
 28. Letter from the ICTY OTP, number 003905/GB/MAL/RR165b dated 27 March 2000.

Results of Investigation

Attacks against the civilian population of Višegrad town and the villages of the Višegrad Municipality occurred throughout the period covered by this indictment. These attacks were carried out by military, paramilitary, and police groups and constituted one of the most notorious campaigns of ethnic cleansing in Bosnia and Herzegovina. The goal of this campaign was the permanent, forcible removal of the Bosniak inhabitants of Višegrad Municipality.

The Višegrad Municipality is situated in the southeast part of Bosnia and Herzegovina, bordering the Republic of Serbia at its outer eastern edge. The center of the Višegrad Municipality is situated on the left bank of the Drina River. In 1991, the Municipality numbered around 21,000 inhabitants, of whom approximately 9,000 lived in the town of Višegrad. Approximately

63% of the population was of Bosniak ethnicity and about 33% of Serb ethnicity. In November 1990, multi-party elections were held in the Municipality. Two political parties won the majority of votes: the SDA (Party of Democratic Action), predominantly Bosniak, and the SDS (Serb Democratic Party), predominantly Serb. The results of elections closely matched the ethnic composition of the population of the Municipality: the SDA won 27 out of 50 seats in the Municipal Assembly, while the SDS won 13 seats. The SDS politicians were not satisfied with this result, believing that they were insufficiently represented in local institutions.

Inter-ethnic tensions flared up soon afterwards. In early 1992, citizens of Bosniak ethnicity were disarmed or called upon to surrender weapons. Simultaneously, certain members of the Serb population began arming themselves and organising military training. Certain of the Bosniaks also tried to organise themselves, but were less successful in doing so. On 4 April 1992, the police were divided along ethnic lines. Soon thereafter, both groups began setting up barricades around Višegrad. This was followed by sporadic violence, including shooting and shelling. In one such incident, Bosniak settlements were shelled with mortar fire, which led many civilians, fearing for their lives, to flee from their villages.

In early April 1992, a Bosniak citizen of Višegrad, Murat Šabanović, took control of a dam on the Drina river near Višegrad and threatened to open the floodgates. On 13 April 1992, Šabanović did in fact release some water, causing damage to the fields located on the river banks. The next day, the Užice Corps of the Yugoslav People's Army (JNA) intervened, took control of the dam and entered Višegrad. The arrival of the Užice Corps had a calming effect at first. After they had secured the town, JNA officers and Bosniak leaders launched a joint campaign in the mass media to encourage people to return to their homes. This campaign led to the return of many Bosniaks who had fled the area. The JNA initiated negotiations between the two parties trying to find the solution for the inter-ethnic tensions. However, some Bosniaks were worried by the fact that the Užice Corps was composed exclusively of Serbs. On one occasion, thousands of Bosniaks from the villages surrounding Višegrad on both river banks were brought to the football stadium in Višegrad. They were subjected to a search for weapons and they were addressed by the JNA commander. He told them that those who lived on the left bank of the Drina River could return to their villages cleansed of the "reactionary forces" while the inhabitants from the right bank of the Drina River were not allowed to return. Because of this warning, many residents of villages on the right bank of the Drina remained

in Višegrad town, decided to hide, or fled. On 19 May 1992, the JNA withdrew from Višegrad. The paramilitary units remained, however, and soon after the JNA departure new units arrived.

Witnesses identified a number of paramilitary groups: the White Eagles (or "Beli Orlovi"), the Avengers ("Osvetnici"), Arkan's Men ("Arkanovci") and Šešelj's Men ("Šešeljevci"). The most violent and most feared paramilitary group was that led by Milan Lukić. Together, these paramilitary groups began a widespread and systematic attack on the Bosniak civilian population of Višegrad Municipality. In addition to the paramilitary groups, police officers often also participated in these attacks, and it appears that the line between the police and the paramilitary groups was somewhat blurred, with the same individuals being identified as members of both groups.

In general, this attack against the Bosniak population involved the disarming of the civilian population; the kidnapping, interrogation, imprisonment, torture, and killing of men of fighting age; the looting and burning of Bosniak houses; and the mass, forcible deportation of the members of the Bosniak population not kidnapped and killed. The men (and occasionally women) who were arrested were interned in a number of locations, among which were the Višegrad Police Station and the Uzamnica Barracks. In these locations, prisoners were kept in inhumane living conditions and beaten and otherwise tortured. In addition, a significant number of the prisoners kept in these locations disappeared. In some cases, their bodies have been exhumed from graves near Slap and elsewhere.

The evidence indicates that almost everyone in Višegrad Municipality would have had to know about the existence and nature of this widespread and systematic attack against the Bosniak population. Bosniak civilians were kidnapped from villages surrounding Višegrad and from the town itself, and dozens or hundreds of these civilians were killed in very public and visible ways. In particular, many civilians were killed on the bridges spanning the Drina River and their dead bodies were then thrown into the river. Since the bridges are visible from many parts of Višegrad town, these killings were well-known to all residents of Višegrad. In addition, dead bodies frequently washed up along the banks of the Drina River, providing further notice to the residents of Višegrad about the events occurring.

The evidence indicates that the Accused, in particular, clearly had knowledge of the existence and nature of the attack against the Bosniak civilian population. On 14 June 1992, he force Witness C and another,

elderly, Bosniak to clean dead bodies and body parts off one of the bridges over the Drina. At the same time this was occurring, other civilians were being taken out of a truck and killed on another part of the bridge. Later the same day, Tanasković forced Witness C to remove body parts and lick up blood in the garden of the Hotel Višegrad. These events alone would have provided the Accused with more than adequate notice regarding the nature and extent of the attack. In addition to these events, though, the Accused also had the chance to observe the conduct of this attack when he witnessed and participated in the burning of houses and the beating and kidnapping of civilians in villages across the municipality. Finally, when the Accused said to [REDACTED] (who had asked him for help finding her husband), "Fuck your God ..., as of today I am going to slaughter everyone, kill the young and the old, men, women, children, everyone," he clearly indicated that he was aware of the scope and the nature of the attack. In short, the evidence indicates that it is simply impossible that the Accused was not aware of the nature and scope of the attack against the Bosniak civilian population in Višegrad.

The evidence gathered during the investigation also convincingly demonstrates that the Accused's actions were a part of this larger attack, and that he knew and intended that his actions be part of the larger attack. In some cases, this is demonstrated by the scale of the crimes in which the Accused participated. On 31 May 1992, the Accused and a group of members of the police and paramilitary groups went through the villages and settlements of Osojnica, Kabernik, Holijaci, Nezuci, and Orahovci, burning houses, stealing property, capturing approximately 27 men of military age, and using them as a human shield. The sheer size of this operation clearly demonstrates that the Accused knew, and intended, that his actions form part of a larger attack. Similarly, the massive scale of the forcible transfer that the Accused participated in on 14 June 1992 indicates that he was aware that his actions were part of a wider attack.

This knowledge and intent is also demonstrated in other ways. For example, after kidnapping Witness A, the Accused said to her, "Now you will see how Karadžić fucks, since your Alija is circumcised." In saying this, the Accused indicated that he knew and intended that Witness A be raped, even though he did not rape her himself. The Accused then drove Witness A to the Višegrad Police Station, where she was later raped by two soldiers. This incident clearly indicates that Tanasković cooperated with others in carrying out the attack against the civilian population, and that he knew that his acts were part of an attack in which others were participating along with him.

Tanasković's knowledge that his conduct formed part of a wider attack is also clear from several of the kidnapping incidents. Tanasković and Novo Rajak kidnapped [REDACTED] Rather than keeping control of the captives themselves, however, they took them to the Uzamnica barracks and turned them over to other soldiers. When Tanasković kidnapped [REDACTED] he took them to the Višegrad Police Station to be imprisoned and guarded by others. Of course, all of these acts are the kinds of acts that formed the very essence of the widespread and systematic attack against the Bosniak civilian population: the burning of houses and the kidnapping of civilians who were later raped, tortured, and killed.

The evidence also makes it clear that Tanasković's actions were motivated by a desire to discriminate against his victims based on racial, national, ethnic, cultural, or religious grounds. For example, in the course of the mass forcible transfer on 14 June 1992, Tanasković was heard to say, "Go to Alija's state, be with Alija..." to the refugees as they were expelled to territory controlled by the Army of Bosnia and Herzegovina. After he kidnapped Witness A, he cursed her "Balija" mother, and told her that as of that moment, she would live in the Republika Srpska, that she would be baptised, that she would pray in a church, that she would kiss the cross, and that her family would not see her until the end of her life. When Witness C begged Tanasković to kill him, Tanasković answered, "You Turkish man, I do not want to kill you as you want but to kill you as I want." All of these statements clearly indicate that Tanasković was aware that his victims were Bosniaks and that their ethnic/national/religious identity was a primary motivation for his crimes. In addition, the fact that all of Tanasković's victims were Bosniaks, as were almost all of the victims of the wider attack, makes it wholly implausible that he was not aware of and motivated by their ethnic/national/religious identity.

Tanasković's personal participation in the attack on the Bosniak population of Višegrad Municipality took place over a long period of time and a wide geographical area and involved the commission of a variety of different crimes. Nevertheless, some patterns in his conduct do emerge. In particular, Tanasković was frequently involved in the abduction of civilians who were later abused, tortured, raped, and killed by others. Tanasković was involved in the kidnapping of Witness A, [REDACTED]

[REDACTED] Of those victims, Witness A was raped, while [REDACTED]

[REDACTED] were killed. The remaining victims were detained in inhumane conditions, beaten, and otherwise abused.

The investigation did not produce any evidence that Tanasković was ever personally physically involved in the killing or rape of any victim. Nevertheless, the fate of his victims is an illustration of the reason that deprivation of physical liberty in the course of an attack on a civilian population is such a serious crime. Namely, persons deprived of their physical liberty during the course of such an attack are removed completely from the protection of law and society, and are very likely to be mistreated, tortured, raped, or killed. It is for that reason that deprivation of physical liberty as a war crime or crime against humanity is a serious offense meriting a long term of imprisonment in its own right. Based on his observations and experiences during the period covered by this indictment, Nenad Tanasković must have known that it was highly likely that his victims would suffer such a fate.

The evidence indicates that Tanasković was more than simply aware of his victims' likely fate, however. It also shows that he subjectively either desired or consented to the fact that his victims would be abused, tortured, raped, or even killed as a result of his kidnappings. For example, when Tanasković told Witness A on the way to the Višegrad Police Station, "Now you will see how Karadžić fucks, since your Alija is circumcised," he indicated not just that he knew that Witness A's rape would be a likely result of the kidnapping, but also that he subjectively desired or consented to the rape. Similarly, when he said to [REDACTED] on 10 June 1992, "Fuck your God ..., as of today I am going to slaughter everyone, kill the young and the old, men, women, children, everyone," in response to a question about someone who had recently been kidnapped, he indicated that he knew that death was the likely fate of those taken away. Therefore, he must have known several days later, when he kidnapped [REDACTED] that a similar fate could well be in store for them. (In fact, both [REDACTED] were killed at some point after the kidnapping.) Nenad Tanasković's participation in the cleaning of bodies and body parts off of the New Bridge also demonstrates that he knew the likely fate of those taken away. In summary, the evidence demonstrates that Nenad Tanasković was aware that rapes and murders might have resulted from his kidnappings, but nevertheless consented to the occurrence of these subsequent crimes, whether he himself participated or not.

The allegations in this indictment are substantiated by the evidence gathered during the investigation and to be presented at trial.

In addition, findings contained in the Judgment of the International Criminal Tribunal for former Yugoslavia against Mitar Vasiljević confirm that the crimes in Višegrad constituted a widespread and systematic attack against a civilian population.

Material supporting the allegations of the Indictment:

1. Witness examination record - protected witness under pseudonym "C", Prosecutor's Office of BiH, number KT-RZ-202/05 dated 22 November 2005,
2. Record of the statement - protected witness under pseudonym "C", Agency for Investigation and Documentation of BiH, number 02-179/96 dated 13 June 1996,
3. Witness examination record - [REDACTED] Prosecutor's Office of BiH, number KT-RZ-202/05 dated 23 November 2005,
4. Record of the statement - [REDACTED] Ministry of Interior (or:MUP) Security Services Centre Goražde, number 03-43/94 dated 25 March 1994,
5. Witness examination record - protected witness under pseudonym "B", Prosecutor's Office of BiH, number KT-RZ-146/05 dated 25 May 2006 with the typist's file note on the error in the record,
6. Witness examination record - protected witness under pseudonym "B", MUP Goražde, number 07-02/3-1- dated 19 March 2004,
7. Witness examination record - [REDACTED] Prosecutor's Office of BiH, number KT-RZ-146/05 dated 29 May 2006,
8. Record of the statement - [REDACTED] MUP Security Services Centre Goražde, number 03-41/94 dated 10 January 1994,
9. Witness examination record - [REDACTED] Prosecutor's Office of BiH, number KT-RZ-146/05 dated 31 May 2006,
10. Witness examination record - [REDACTED] MUP Goražde, number 07-02/3-1- dated 17 December 2003,
11. Record of the statement - [REDACTED] Agency for Investigation and Documentation of BiH, number 02-184/96 dated 15 July 1996,
12. Witness examination record - [REDACTED] Prosecutor's Office of BiH, number KT-RZ-146/05 dated 01 June 2006,
13. Record of the statement - [REDACTED] MUP Security Services Centre Goražde, number 02-11/95 dated 11 September 1992,

14. Witness examination record - protected witness under pseudonym "A", Prosecutor's Office of BiH, number KT-RZ-146/05 dated 09 June 2006,
15. Witness examination record - protected witness under pseudonym "A", Prosecutor's Office of BiH, number KT-RZ-146/05 dated 06 June 2006,
16. Witness examination record - protected witness under pseudonym "A", MUP Goražde, number 07-02/3-1- dated 09 April 2004,
17. Record of the statement - protected witness under pseudonym "A", MUP Security Services Centre Goražde, number 03-38/94 dated 23 March 1994,
18. Witness examination record - [REDACTED] Prosecutor's Office of BiH, number KT-RZ-146/05 dated 05 June 2006,
19. Witness examination record - [REDACTED] Prosecutor's Office of BiH, number KT-RZ-146/05 dated 12 June 2006,
20. Record of the statement - [REDACTED] MUP Security Services Centre Goražde, number 03-16/94 dated 20 January 1994,
21. Witness examination record - [REDACTED] Prosecutor's Office of BiH, number KT-RZ-146/05 dated 14 June 2006,
22. Record of the statement - [REDACTED] Commission for gathering of war crime facts in BiH, Novi grad (New city) Municipality, Sarajevo, dated 28 February 1992,
23. Witness examination record - [REDACTED] Prosecutor's Office of BiH, number KT-RZ-146/05 dated 27 July 2006,
24. Witness examination record - [REDACTED] Prosecutor's Office of BiH, number KT-RZ-146/05 dated 27 July 2006,
25. Record of the statement - [REDACTED] MUP Security Services Centre Sarajevo-Visoko, number 3665/94 dated 29 December 1994,
26. Record on the questioning of the suspect Tanasković Nenad, Prosecutor's Office of BiH, number KT-RZ-146/06 dated 11 July 2006.

Proposal for Detention following the Confirmation of the Indictment

Pursuant to Article 137(1) and (2) of the BiH CPC, the Prosecutor's Office of BiH proposes that custody of Nenad Tanasković be extended after confirmation of the indictment, for the period set forth by Article 137(2), on the grounds set forth in Article 132 (1)(a), (b) and (d) of the BiH CPC.

Article 132(1)(a): Possibility of Flight

The Prosecutor submits that there are grounds for ordering custody against Nenad Tanasković under Article 132(1)(a) based on two principal factors: (1) the gravity of the crimes he is charged with and the lengthy prison sentence he faces if convicted; and (2) the ease with which he could flee to the Republic of Serbia and the potential difficulty of securing his return given the ease with which he could obtain the citizenship of the Republic of Serbia.

Gravity of Crimes

The crimes Tanasković is charged with carry a minimum penalty of 10 years imprisonment and a maximum penalty of 45 years imprisonment. Anyone facing the possibility of such a lengthy prison sentence has a strong incentive to flee criminal proceedings. This Court has recognized this basic fact in numerous decisions regarding detention.⁴ Following the confirmation of this indictment, the risk of such a sentence will become much more real for Mr. Tanasković, and his incentive to flee will therefore increase.

Possibility of Flight to Serbia

Due to the close proximity of the Serbian border to the Accused's residence and the existence of illegal border crossings into Serbia, the Accused could easily frustrate these proceedings by crossing the border to the Republic of Serbia. Article 47 of the Constitution of the Republic of Serbia provides, „A citizen of the Republic of Serbia may not be deprived of his citizenship, exiled or extradited.”⁵

Even though the Prosecutor has no information indicating that Mr. Tanasaković has the citizenship of the Republic of Serbia, the Prosecutor notes that Article 23 of the 2004 citizenship law of the Republic of Serbia provides that an ethnic Serb may take up citizenship of the Republic of Serbia simply by filing a written statement that he or she considers the Republic of Serbia to be his or her own state.⁶

⁴ See, e.g. *Goran and Zoran Damjanović*, Appeals Panel, X-KRN-05/107, 26.05.2006; *Željko Mejakić et al.* (Appeal of Dušan Fuštar only), Appeals Panel, X-KRN-06/200, 13.05.2005; *Gojko Janković*, Trial Panel, X-KR-05/161, 20 February 2006.

⁵ Available online in English on the website of the Government of the Republic of Serbia: http://www.srbija.sr.gov.yu/cinjenice_o_srbiji/ustav.php.

⁶ Specifically, Article 23 of the Law on the Citizenship of the Republic of Serbia provides in part:

In addition, Article 25 of the Law on the Citizenship of the Republic of Serbia provides that citizenship is acquired *on the same day that statement is filed*.⁷ It therefore appears that an ethnic Serb can acquire the citizenship of the Republic of Serbia in a very short period of time, possibly even just one day. Taking this into account, the Prosecutor submits that there should be essentially no difference in the assessment of the risk of flight of persons who already have Serbian citizenship and those who are entitled to acquire it upon the filing of a written statement.

Indeed, in the *Gojko Janković* case, the Court stated that the risk of flight of the Accused was „additionally substantiated by the fact that the Accused meets the requirements to acquire the citizenship of Serbia and Montenegro,“ even though Mr. Janković does not currently hold that citizenship.⁸

In numerous previous cases, this Court has considered the risk of flight to Serbia (or Serbia and Montenegro) and the difficulty of securing the return of those who flee there as a factor justifying detention under Article 132(1)(a).⁹

Summary: Article 132(1)(a)

The Prosecutor submits that there are valid reasons based on particular facts to fear that the Accused, if released, will not voluntarily respond to a Court summons and that he could easily cross the border to Serbia and thus become unavailable to the Court of BiH during these criminal proceedings. Therefore, the Prosecutor's Office of BiH submits that grounds for his detention exist under Article 132(1)(a) of the CPC of BiH.

Article 132(1)(b): Influence of Witnesses, Accessories, and Accomplices

A person belonging to the Serbian or some other nation or ethnic community from the territory of the Republic of Serbia, who has no permanent residence in the territory of the Republic of Serbia, may be accepted into the citizenship of the Republic of Serbia if he or she has attained 18 years of age and has not been deprived of his or her legal capacity and if he or she files a written statement that he or she considers the Republic of Serbia to be his own state.

⁷ Article 25 provides in relevant part:

Where the condition for the acceptance into the citizenship of the Republic of Serbia is only to submit a statement recognizing the Republic of Serbia as one's own state the citizenship of the Republic of Serbia shall be acquired *on the day of the submission of the statement*. (Emphasis added.)

⁸ *Gojko Janković*, First Instance Panel, X-KR-05/161, 20 February 2006.

⁹ See, e.g., *Željko Mejakić et al.* (Appeal of Dušan Fuštar only), Appeals Panel, X-KRN-06/200, 13.05.2005; *Dragoje Paunović*, Appeals Panel, X-KR-05/16, 03.02.2006.

The Prosecutor's Office of BiH further submits that grounds for detention exist under Article 132(1)(b) of the CPC of BiH. There are valid reasons to fear that the Accused, if released, might hinder the proceedings by influencing witnesses, accessories, and accomplices.

Witnesses

Two of the witnesses interviewed in this case have been threatened as a result of their testimony in the criminal case against Novo Rajak, which is pending in the Sarajevo Cantonal Court. These witnesses received threatening phone calls and were told that they would not be safe if they ever returned to Višegrad. Novo Rajak acted with Nenad Tanasković in committing many of the crimes that form the basis of this indictment. It is therefore entirely reasonable to believe that there is a risk of intimidation of witnesses in this case as well, and that risk will increase if Nenad Tanasković is at liberty and thus able to participate in or encourage such harassment.

In addition, the Prosecutor submits that the nature of the crimes committed by the Accused also indicate a risk of witness intimidation. The crimes that Nenad Tanasković is charged with demonstrate a complete lack of respect for human dignity and human life. Also, the crimes were committed over a long period of time, with ample opportunity for reflection between the criminal incidents. This opportunity for reflection resulted only in increasingly severe criminal behavior by the Accused as time went on. It is submitted that such a person is much more likely to use or threaten violence to influence the outcome of his case than, for example, a non-violent offender or one who committed a single violent crime motivated by passion.

Accomplices and Accessories

In addition to the risk that the Accused will influence witnesses if left at liberty, there is a very real risk that the Accused will also attempt to influence his accomplices and accessories.

Most of the crimes Nenad Tanasković is charged with were committed with at least one other co-perpetrator or accessory, and several of the crimes were committed as part of a large group of perpetrators. If left at liberty, Nenad Tanasković would have the opportunity to communicate with these co-perpetrators and accessories to discuss their potential testimony as defense witnesses. This coordination would also be in the interest of these co-

perpetrators and accessories, since they also may become the subjects of investigation or prosecution by this office in the future. Indeed, this Court found that this „collusion risk“ was a factor justifying detention under Article 132(1)(b) in the case of Željko Lelek, another suspect from the Višegrad region.¹⁰ The Prosecutor submits that allowing Nenad Tanasković to remain at liberty could adversely affect the proceedings both in this case and in future investigations into events in the Višegrad region. Again, following the confirmation of this indictment, the incentive for all participants in crimes in the Višegrad region to attempt to coordinate their stories will be greatly increased.

If, on the other hand, Nenad Tanasković is kept in custody during the course of these proceedings, the Court will be in a position to monitor the people he telephones or receives visits from, and will be able to restrict his access to co-perpetrators and accessories as appropriate.

Summary: Article 132(1)(b)

Because of the risk that Nenad Tanasković will attempt to intimidate witnesses and influence co-perpetrators and accomplices, the Prosecutor submits that there are grounds for ordering his detention under Article 132(1)(b) of the BiH CPC.

Art. 132(1)(d): Public or Property Security

Finally, the Prosecutor submits that there are grounds for ordering detention against Nenad Tanasković under Article 132(1)(d). Clearly, Nenad Tanasković is charged with criminal offenses punishable by a sentence of imprisonment of ten years or more, as required by Article 132(1)(d).

This Court has recognized that the existence of grounds for detention under Article 132(1)(d) must be determined based on the risk to public or property security caused by the manner of commission or the consequences of a criminal offense.¹¹ In this case, the criminal offenses were committed on a widespread scale with the apparent goal of creating the greatest possible amount of terror, anxiety, and insecurity in the population. The consequences of the crimes were deaths, disappearances, severe and permanent physical injuries, and the permanent dislocation of a very large number of people.

¹⁰ *Željko Lelek*, Appeals Panel, X-KRN-06/202, 15.06.2006

¹¹ *Željko Lelek*, Appeals Panel, X-KRN-06/202, 15.06.2006.

This Court has recognized that the existence of a large number of victims and injured parties is an important consideration in determining whether releasing a suspect or Accused would threaten public or property security.¹² The Court has also recognized that the level of anxiety, frustration and insecurity resulting from the crimes as a factor justifying detention under Article 132(1)(d).¹³ It is especially important that Nenad Tanasković committed these criminal offenses in the region of Višegrad, where this Court has acknowledged that the security situation remains vulnerable, and trust in the authorities has not yet been established.¹⁴ It is also relevant that Nenad Tanasković was a police officer at the time of his offenses and therefore may still have significant contacts within the police forces.¹⁵

Conclusion

For the foregoing reasons, custody during the course of these proceedings is necessary to secure the presence of the Accused throughout the main trial; to prevent interference with witnesses, accessories and accomplices; and to protect public and property security.

For the reasons set out above, the Prosecutor seeks extension of custody of the Accused after confirmation of the indictment and until the first-instance verdict is pronounced.

Based on the foregoing, the Prosecutor's Office of BiH moves the Preliminary Hearing Judge of the Court of BiH to confirm Counts 1-7 of this Indictment pursuant to Article 228(1) of the BiH CPC, and to extend detention for the reasons set out pursuant to Article 132(1)(a), (b), and (d) of the BiH CPC.

Respectfully submitted,


International Prosecutor
Prosecutor's Office of BiH
David Schwendiman

¹² See, e.g., *Petar Mitrović et al.*, Appeals Panel, X-KRN-05/24, 5.10.2005 and 03.08.2005; *Željko Lelek*, Appeals Panel, X-KRN-06/202, 18.05.2006.

¹³ See, e.g., *Mithad Novalić*, Appeals Panel, X-KRN-05/167, 15.03.2006.

¹⁴ *Željko Lelek*, Appeals Panel, X-KRN-06/202, 15.06.2006.

¹⁵ *Petar Mitrović et al.*, Appeals Panel, X-KRN-05/24, 03.08.2005; *Željko Lelek*, Appeals Panel, X-KRN-06/202, 18.05.2006.